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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

SANBURN CONSTRUCTION  
CORPORATION,

Petitioner,

v.

THE SUPERIOR COURT OF SOLANO  
COUNTY,

Respondent;

QUIET HARBOR HOMEOWNERS'  
ASSOCIATION et al.,

Real Parties in Interest.

A101386

(Solano County  
Super. Ct. No. FCS-014519)

By the Court:<sup>1</sup>

By petition for writ of mandate or other extraordinary relief, Sanburn Construction Company (Sanburn) challenges an order compelling the deposition testimony of its executive and principal, John Volkman, and requiring the production of certain documents. Having afforded all parties notice that we might act by issuing our peremptory writ in the first instance (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180), we will grant relief in part.

The parties are familiar with the factual and procedural history of this case, and we need not and do not reiterate it in detail. (*People v. Garcia* (2002) 97 Cal.App.4th 847.)

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<sup>1</sup> Before Marchiano, P.J., Swager, J., and Margulies, J.

Sanburn is a defendant in a suit concerning construction defects. Volkman had been scheduled for deposition as Sanburn's designated person most knowledgeable. Just prior to the deposition, real party Centex served a lengthy notice and request for production of documents. At the October 31, 2002, deposition, Volkman, on instruction of counsel, declined to answer a number of questions. The deposition was adjourned, and the motion to compel followed.<sup>2</sup> Sanburn filed this petition January 21, 2003, the day it was required to comply with the challenged discovery order. Trial was then set to commence January 31, 2003. Because the order arguably required production of employment records that included personal identifying information, we stayed it in part, and invited opposition briefing from real parties in interest. In all other respects, however, we expressly denied Sanburn's request for a stay.

Sanburn first contends that the order must be set aside because notice was served less than 48 hours in advance of the deposition. Volkman had been scheduled for deposition only as a designated person most knowledgeable, not as a percipient witness. The trial court found good cause to shorten time for scheduling the deposition (Code Civ. Proc. § 2025, subd. (f)),<sup>3</sup> concluding that "[i]n light of the presently scheduled trial date and the time restraints which that date now places on discovery activities, it is also ordered that the deposition of Volkman may proceed as both a deposition of a person most knowledgeable and a percipient witness deposition of Volkman himself." On this record, the court did not abuse its discretion.

Next Sanburn argues that there was no evidence that its financial records and personnel records are relevant to the litigation, and that they may not be the subject of inquiry absent a claim against it for punitive damages. As the superior court found, however, the records concern historical information about the company, and information

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<sup>2</sup> A special master ruled on the motion to compel by written order. After hearing, that order was adopted by the superior court as its own.

<sup>3</sup> Unless noted, further statutory references are to the Code of Civil Procedure.

about a new business entity. The litigation involves Sanburn's alleged guarantees and repair obligations, and the identity of the enterprises holding Sanburn's obligations.

Finally, Sanburn argues that its employees must be given notice and an opportunity to object before their records are produced. We agree that such records may not be produced if identifying information is present. (§ 1985.6.) Items 11 and 17 of the request for production of documents may be read to require production of prohibited employee records.

Therefore, let a peremptory writ of mandate issue, commanding respondent County of Solano Superior Court in *Quiet Harbor Homeowners' Association v. Centex Real Estate Corporation, et al.*, and related cross-actions (No. 014519 (2000)) to set aside that portion of its January 3, 2003, order requiring production of documents in response to items 11 and 17 of the request for production of documents, to the extent the employment records include identifying information (§ 1985.6), and to instead require production of such documents only if all information which would in any way identify any employee is deleted. (§ 1985.6, subd. (h).)

In all other respects, the petition for writ of mandate is denied. The stay previously imposed shall remain in effect until the remittitur issues. This opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 24 (b)(3).)